

AMENDED IN SENATE AUGUST 19, 2016
AMENDED IN SENATE AUGUST 2, 2016
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AMENDED IN ASSEMBLY APRIL 29, 2015
AMENDED IN ASSEMBLY MARCH 26, 2015
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 197

Introduced by Assembly Member Eduardo Garcia
(Principal coauthor: Assembly Member Gomez)
(Coauthor: Assembly Member Rendon)

January 28, 2015

An act to add Article 7.6 (commencing with Section 9147.10) to Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code, and to amend ~~Section~~ *Sections* 39510 and 39607 of, and to add Sections 38562.5 38506, 38531, 38562.5, and 38562.7 to, the Health and Safety Code, relating to air resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 197, as amended, Eduardo Garcia. State Air Resources Board: ~~greenhouse-gases: gases: regulations.~~

(1) Existing law establishes the State Air Resources Board consisting of 14 members and vests the state board with regulatory jurisdiction over air quality issues.

This bill would add 2 Members of the Legislature to the state board as ex officio, nonvoting members. The bill would provide that the voting members of the state board are appointed for staggered 6-year terms

and upon expiration of the term of office of a voting member, the appointing authority may reappoint that member to a new term of office, subject to specified requirements. The bill would require the state board to establish the initial staggered terms. The bill would create the Joint Legislative Committee on Climate Change Policies consisting of *at least* 3 Members of the Senate and *at least* 3 Members of the Assembly and would require the committee to ascertain facts and make recommendations to the Legislature and to the houses of the Legislature concerning the state's ~~programs and policies~~ *programs, policies, and investments* related to climate ~~change~~ *change*, as specified.

~~(2) The California Global Warming Solutions Act of 2006 designates the state board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The act requires the board to adopt greenhouse gas emissions limits and emission reduction measures by regulation, and authorizes the state board to include the use of market-based compliance mechanisms to comply with the regulations.~~

(2) Existing law requires the state board to inventory sources of air pollution within the air basins of the state and determine the kinds and quantity of air pollutants. The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to adopt regulations to require the reporting and verification of statewide greenhouse gas emissions and to monitor and enforce compliance with the act.

This bill would require the state board to make available, and update at least annually, on its Internet Web site the emissions of greenhouse gases, criteria pollutants, and toxic air contaminants for each facility that reports to the state board and air districts. The bill would require the state board, at least once a year at a hearing of the Joint Legislative Committee on Climate Change Policies, to present an informational report on the reported emissions of greenhouse gases, criteria pollutants, and toxic air contaminants from all sectors covered by the scoping plan, as specified.

This bill would require the state board to make available, and update at least annually, on its Internet Web site the emissions of greenhouse gases, criteria pollutants, and toxic air contaminants throughout the state broken down to a local and subcounty level for stationary sources and to at least a county level for mobile sources, as specified.

(3) The act requires the board to approve a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020. The act requires the state board

to prepare and approve a scoping plan for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions.

~~This bill would require the state board to consider adopting measures to meet the greenhouse gas emissions limits based on a specified priority. The bill would require the state board to rank all greenhouse gas emissions reduction measures, as specified. The bill would require the state board to make available to the public all data related to the ranking and to provide annually a presentation of the ranking at one of its regular meeting.~~

This bill would require the state board, when adopting rules and regulations to achieve greenhouse gas emissions reductions beyond the statewide greenhouse gas emissions limit and to protect the state's most impacted and disadvantaged communities, to follow specified requirements, consider the social costs of the emissions of greenhouse gases, and prioritize specified emission reduction rules and regulations.

This bill would require the state board, when updating the scoping plan, to identify specified information for each emissions reduction measure, including each alternative compliance mechanism, market-based compliance mechanism, and potential monetary and nonmonetary incentive.

(3)

(4) This bill would become operative only if SB 32 of the 2015–16 Regular Session is enacted and becomes effective on or before January 1, 2017.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The California Global Warming Solutions Act of 2006
- 4 (Division 25.5 (commencing with Section 38500) of the Health
- 5 and Safety Code) authorizes the State Air Resources Board to
- 6 adopt regulations to achieve the maximum technologically feasible
- 7 and cost-effective greenhouse gas emission reductions.
- 8 (b) The California Global Warming Solutions Act of 2006
- 9 (Division 25.5 (commencing with Section 38500) of the Health
- 10 and Safety Code) requires the State Air Resources Board to reduce

1 statewide emissions of greenhouse gases to at least the 1990
2 emissions level by 2020 and to maintain and continue reductions
3 thereafter.

4 (c) Continuing to reduce greenhouse gas emissions is critical
5 for the protection of all areas of the state, but especially for the
6 state's most disadvantaged communities, as those communities
7 are affected first, and most frequently, by adverse impacts of
8 climate change, including increased frequency of extreme weather
9 events such as drought, heat, and flooding. The state's most
10 disadvantaged communities are also disproportionately impacted
11 by the deleterious effects of climate change on public health.

12 (d) The State Air Resources Board's actions to reduce
13 greenhouse gas emissions must be done in a manner that is
14 transparent and accountable to the public and the Legislature. To
15 this end, the State Air Resources Board must enhance the
16 accessibility of information used to inform and evaluate regulatory
17 measures developed to reduce greenhouse gas emissions.

18 (e) Transparency and accountability also are essential to
19 ensuring the state's actions are done in an equitable fashion that
20 is protective and mindful of the effects on the state's most
21 disadvantaged communities.

22 (f) In recognition of the need for ongoing, permanent oversight
23 over the implementation of the state's climate policies, the Joint
24 Legislative Committee on Climate Change Policies will be
25 established. The committee will uniquely provide an oversight
26 perspective that connects the jurisdictions of several legislative
27 standing committees, including those that have the issues of air
28 quality, transportation, energy, and local government within their
29 jurisdiction, which is critical given that the state has integrated
30 climate change policies throughout the activities of many state
31 agencies in addition to the State Air Resources Board.

32 **SECTION 1.**

33 SEC. 2. Article 7.6 (commencing with Section 9147.10) is
34 added to Chapter 1.5 of Part 1 of Division 2 of Title 2 of the
35 Government Code, to read:

Article 7.6. Joint Legislative Committee on Climate Change Policies

9147.10. (a) The Joint Legislative Committee on Climate Change Policies is hereby created. The committee shall ascertain facts and make recommendations to the Legislature concerning the state's ~~programs and policies~~ *programs, policies, and investments* related to climate change. *Those recommendations shall be shared with other appropriate legislative standing committees, including the Assembly Committee on Budget and the Senate Committee on Budget and Fiscal Review.*

(b) The *joint* committee shall consist of *at least* three Members of the Senate and *at least* three Members of the Assembly who shall be selected in the manner provided for in the Joint Rules of the Senate and Assembly. ~~The committee shall elect its own chair. A vacancy occurring in the membership of the committee shall be filled in the manner provided for in the Joint Rules of the Senate and Assembly. A vacancy is deemed to exist as to any member of the committee whose term is expiring whenever the member is not reelected at the general election.~~ *The membership shall reflect the perspectives of multiple standing committees.*

(c) *The chair of the State Air Resources Board shall annually appear before the joint committee to present the state board's annual informational report on the reported emissions of greenhouse gases, criteria pollutants, and toxic air contaminants from all sectors covered by the scoping plan, as required pursuant to subdivision (b) of Section 38531 of the Health and Safety Code. This presentation may be done at a hearing that is held jointly with the relevant Assembly and Senate standing committees.*

(d) *In recognition of the technical complexity involved in reviewing the state's climate policies, the joint committee may establish a panel of experts to provide an independent analysis of the state's policies to better inform the joint committee's recommendations.*

~~SEC. 2. Section 38562.5 is added to the Health and Safety Code, to read:~~

~~38562.5. The state board shall consider adopting measures to achieve the statewide greenhouse gas emissions limits adopted pursuant to this division based on the following priority:~~

1 ~~(a) Measures that result in direct reductions in the emissions of~~
2 ~~greenhouse gases from large stationary sources, such as oil~~
3 ~~refineries, and the transportation sector in the most technologically~~
4 ~~feasible and cost-effective manner possible that accounts for the~~
5 ~~societal costs of the emissions of greenhouse gases.~~

6 ~~(b) Measures that result in direct reductions in the emissions of~~
7 ~~greenhouse gases from sources other than those specified in~~
8 ~~subdivision (a) in the most technologically feasible and~~
9 ~~cost-effective manner possible that accounts for the societal costs~~
10 ~~of the emissions of greenhouse gases.~~

11 ~~SEC. 3. Section 38562.7 is added to the Health and Safety~~
12 ~~Code, to read:~~

13 ~~38562.7. (a) The state board shall rank all emission reduction~~
14 ~~measures adopted pursuant to this part based on both of the~~
15 ~~following:~~

16 ~~(1) The reductions in the emissions of greenhouse gases, criteria~~
17 ~~pollutants, and toxic air contaminants resulting from the~~
18 ~~implementation of the measure.~~

19 ~~(2) The cost-effectiveness of the measure.~~

20 ~~(b) The state board shall make available to the public all data~~
21 ~~related to its ranking pursuant to subdivision (a) and annually~~
22 ~~provide a presentation on the ranking at a regular meeting of the~~
23 ~~state board.~~

24 ~~SEC. 3. Section 38506 is added to the Health and Safety Code,~~
25 ~~to read:~~

26 ~~38506. For purposes of this division, "social costs" means an~~
27 ~~estimate of the economic damages, including, but not limited to,~~
28 ~~changes in net agricultural productivity; impacts to public health;~~
29 ~~climate adaptation impacts, such as property damages from~~
30 ~~increased flood risk; and changes in energy system costs, per~~
31 ~~metric ton of greenhouse gas emission per year.~~

32 ~~SEC. 4. Section 38531 is added to the Health and Safety Code,~~
33 ~~to read:~~

34 ~~38531. (a) (1) The state board shall make available, and~~
35 ~~update at least annually, on its Internet Web site the emissions of~~
36 ~~greenhouse gases and criteria pollutants for each facility that~~
37 ~~reports to the state board pursuant to Section 38530. The data~~
38 ~~shall be displayed in a manner that illustrates the changes in~~
39 ~~emissions levels over time.~~

1 (2) No later than January 1, 2018, the state board shall add
2 toxic air contaminant emissions to the information made available
3 pursuant to paragraph (1).

4 (3) The criteria pollutant and toxic air contaminant emissions
5 data for stationary sources shall be based on data provided to the
6 state board by air pollution control and air quality management
7 districts collected pursuant to Section 39607 and Chapter 3
8 (commencing with Section 44340) of Part 6 of Division 26.

9 (b) At least once a year at a hearing of the Joint Legislative
10 Committee on Climate Change Policies, the state board shall
11 present an informational report on the reported emissions of
12 greenhouse gases, criteria pollutants, and toxic air contaminants
13 from all sectors covered by the scoping plan prepared pursuant
14 to Section 38561. The report shall evaluate emission trends and
15 include a discussion of the regulatory requirements, initiatives,
16 and other programs that may influence those trends. The report
17 also may include recommendations from the state board for
18 legislative action and consideration.

19 SEC. 5. Section 38562.5 is added to the Health and Safety
20 Code, to read:

21 38562.5. When adopting rules and regulations pursuant to this
22 division to achieve emissions reductions beyond the statewide
23 greenhouse gas emissions limit and to protect the state's most
24 impacted and disadvantaged communities, the state board shall
25 follow the requirements in subdivision (b) of Section 38562,
26 consider the social costs of the emissions of greenhouse gases,
27 and prioritize both of the following:

28 (a) Emission reduction rules and regulations that result in direct
29 emission reductions at large stationary sources of greenhouse gas
30 emissions sources and direct emission reductions from mobile
31 sources.

32 (b) Emission reduction rules and regulations that result in direct
33 emission reductions from sources other than those specified in
34 subdivision (a).

35 SEC. 6. Section 38562.7 is added to the Health and Safety
36 Code, to read:

37 38562.7. Each scoping plan update developed pursuant to
38 Section 38561 shall identify for each emissions reduction measure,
39 including each alternative compliance mechanism, market-based

1 *compliance mechanism, and potential monetary and nonmonetary*
2 *incentive the following information:*

3 (a) *The range of projected greenhouse gas emissions reductions*
4 *that result from the measure.*

5 (b) *The range of projected air pollution reductions that result*
6 *from the measure.*

7 (c) *The cost-effectiveness, including avoided social costs, of the*
8 *measure.*

9 ~~SEC. 4.~~

10 SEC. 7. Section 39510 of the Health and Safety Code is
11 amended to read:

12 39510. (a) The State Air Resources Board is continued in
13 existence in the California Environmental Protection Agency. The
14 state board shall consist of 14 voting members.

15 (b) Twelve members shall be appointed by the Governor, with
16 the consent of the Senate, on the basis of their demonstrated interest
17 and proven ability in the field of air pollution control and their
18 understanding of the needs of the general public in connection
19 with air pollution problems.

20 (c) Of the members appointed pursuant to subdivision (b), six
21 members shall have the following qualifications:

22 (1) One member shall have training and experience in
23 automotive engineering or closely related fields.

24 (2) One member shall have training and experience in chemistry,
25 meteorology, or related scientific fields, including agriculture or
26 law.

27 (3) One member shall be a physician and surgeon or an authority
28 on health effects of air pollution.

29 (4) Two members shall be public members.

30 (5) One member shall have the qualifications specified in
31 paragraph (1), (2), or (3) or shall have experience in the field of
32 air pollution control.

33 (d) Of the members appointed pursuant to subdivision (b), six
34 members shall be board members from districts who shall reflect
35 the qualitative requirements of subdivision (c) to the extent
36 practicable. Of these members:

37 (1) One shall be a board member from the south coast district.

38 (2) One shall be a board member from the bay district.

39 (3) One shall be a board member from the San Joaquin Valley
40 Unified Air Pollution Control District.

1 (4) One shall be a board member from the San Diego County
2 Air Pollution Control District.

3 (5) One shall be a board member from the Sacramento district,
4 the Placer County Air Pollution Control District, the Yolo-Solano
5 Air Quality Management District, the Feather River Air Quality
6 Management District, or the El Dorado County Air Pollution
7 Control District.

8 (6) One shall be a board member of any other district.

9 (e) The Senate Committee on Rules and the Speaker of the
10 Assembly shall each appoint one member to the state board who
11 shall be a person who works directly with communities in the state
12 that are most significantly burdened by, and vulnerable to, high
13 levels of pollution, including, but not limited to, communities with
14 diverse racial and ethnic populations and communities with
15 low-income populations.

16 (f) Any vacancy shall be filled by the appointing authority within
17 30 days of the date on which it occurs. If the Governor fails to
18 make an appointment for any vacancy within the 30-day period,
19 the Senate Committee on Rules may make the appointment to fill
20 the vacancy in accordance with this section.

21 (g) While serving on the state board, all members shall exercise
22 their independent judgment as officers of the state on behalf of the
23 interests of the entire state in furthering the purposes of this
24 division. A member of the state board shall not be precluded from
25 voting or otherwise acting upon any matter solely because that
26 member has voted or acted upon the matter in his or her capacity
27 as a member of a district board, except that a member of the state
28 board who is also a member of a district board shall not participate
29 in any action regarding his or her district taken by the state board
30 pursuant to Sections 41503 to 41505, inclusive.

31 (h) (1) Except for initial staggered terms that shall be
32 established by the state board, the term of office for the voting
33 members shall be six years. Upon expiration of the term of office
34 of a voting member, the appointing authority may reappoint that
35 member to a new term of office, subject to the requirement of
36 subdivision (b), if applicable.

37 (2) Notwithstanding paragraph (1), a person who is a member
38 of the state board pursuant to subdivision (d) shall not continue as
39 a member if he or she ceases to hold the membership that qualifies
40 that person to be appointed as a member of the state board. The

1 membership on the state board held by that person shall terminate
2 immediately upon ceasing to hold that qualifying membership.

3 (i) In addition to subdivision (a), two Members of the Legislature
4 shall serve as ex officio, nonvoting members of the state board.
5 One member shall be appointed by the Senate Committee on Rules.
6 One member shall be appointed by the Speaker of the Assembly.

7 *SEC. 8. Section 39607 of the Health and Safety Code is*
8 *amended to read:*

9 39607. The state board shall:

10 (a) Establish a program to secure data on air quality in each air
11 basin established by the state board.

12 (b) (1) Inventory sources of air pollution within the air basins
13 of the state and determine the kinds and quantity of air pollutants,
14 including, but not necessarily limited to, the contribution of natural
15 sources, mobile sources, and area sources of emissions, including
16 a separate identification of those sources not subject to district
17 permit requirements, to the extent feasible and necessary to carry
18 out the purposes of this chapter. The state board shall use, to the
19 fullest extent, the data of local agencies and other state and federal
20 agencies in fulfilling this purpose.

21 (2) *Make available on the state board's Internet Web site the*
22 *emissions of greenhouse gases, criteria pollutants, and toxic air*
23 *contaminants throughout the state broken down to a local and*
24 *subcounty level for stationary sources and to at least a county*
25 *level for mobile sources. The emissions reported shall include data*
26 *on the emissions of criteria pollutants and toxic air contaminants*
27 *emitted by stationary sources as provided to the state board by*
28 *districts. The information shall be displayed graphically and*
29 *updated at least once a year.*

30 (c) Monitor air pollutants in cooperation with districts and with
31 other agencies to fulfill the purpose of this division.

32 (d) Adopt test procedures to measure compliance with its
33 nonvehicular emission standards and those of districts.

34 (e) Establish and periodically review criteria for designating an
35 air basin attainment or nonattainment for any state ambient air
36 quality standard set forth in Section 70200 of Title 17 of the
37 California Code of Regulations. In developing and reviewing these
38 criteria, the state board shall consider instances where there is poor
39 or limited ambient air quality data, and shall consider highly
40 irregular or infrequent violations. The state board shall provide an

1 opportunity for public comment on the proposed criteria, and shall
2 adopt the criteria after a public hearing.

3 (f) Evaluate, in consultation with the districts and other
4 interested parties, air quality-related indicators ~~which~~ *that* may be
5 used to measure or estimate progress in the attainment of state
6 standards and establish a list of approved indicators. On or before
7 July 1, 1993, the state board shall identify one or more air quality
8 indicators to be used by districts in assessing progress as required
9 by subdivision (b) of Section 40924. The state board shall continue
10 to evaluate the prospective application of air quality indicators
11 and, upon a finding that adequate air quality modeling capability
12 exists, shall identify one or more indicators ~~which~~ *that* may be
13 used by districts in lieu of the annual emission reductions mandated
14 by subdivision (a) of Section 40914. In no case shall any indicator
15 be less stringent or less protective, on the basis of overall health
16 protection, than the annual emission reduction requirement in
17 subdivision (a) of Section 40914.

18 (g) Establish, not later than July 1, 1996, a uniform methodology
19 ~~which~~ *that* may be used by districts in assessing population
20 exposure, including, but not limited to, reduction in exposure of
21 districtwide ~~subpopulations~~ *subpopulations*, such as children, the
22 elderly, and persons with respiratory disease, to ambient air
23 pollutants at levels above the state ambient air quality standards,
24 for estimating reductions in population exposure for the purposes
25 of Sections 40913, 40924, and 41503, and for the establishment
26 of the means by which reductions in population exposures may be
27 achieved. The methodology adopted pursuant to this subdivision
28 shall be consistent with the federal Clean Air Act (42 U.S.C. Sec.
29 7401 et seq.), and with this division, including, but not limited to,
30 Section 39610.

31 ~~SEC. 5.~~

32 *SEC. 9.* This act shall become operative only if Senate Bill 32
33 of the 2015–16 Regular Session is enacted and becomes effective
34 on or before January 1, 2017.